

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

JESUS AYALA	§	
v.	§	CIVIL ACTION NO. 6:16cv612
TDCJ, ET AL.	§	
and		
JESUS AYALA	§	
v.	§	CIVIL ACTION NO. 6:16cv1144
BRAD LIVINGSTON, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ORDER OF CONSOLIDATION

The Plaintiff Jesus Ayala, proceeding *pro se*, filed these two civil rights lawsuits under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the cases be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Ayala filed his first lawsuit, cause no. 6:16cv612, as part of a larger case involving a number of prisoners. His lawsuit was severed into a separate case and he was ordered to file an amended complaint. When he did so, the amended complaint was docketed as a new lawsuit, cause no. 6:16cv1144.

The Magistrate Judge issued a Report recommending that the two cases be consolidated. Ayala did not file objections to this Report; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal

conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 5 in cause no. 6:16cv612) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the lawsuits styled *Ayala v. TDCJ., et al.*, civil action no. 6:16cv612, and *Ayala v. Livingston, et al.*, civil action no. 6:16cv1144, are hereby **CONSOLIDATED** for all purposes into one civil rights lawsuit, styled as *Ayala v. TDCJ., et al.*, civil action no. 6:16cv612. See Rule 42(a), Fed. R. Civ. P. Any pleadings or documents, including filing fee payments, received in either case shall be docketed in cause no. 6:16cv612. No further entries, after this order of consolidation, shall be made on the docket of cause no. 6:16cv1144. It is further

ORDERED that a separate filing fee shall not be charged for cause no. 6:16cv1144. All funds which have been heretofore received or which are received in the future, in either case, shall be credited to cause no. 6:16cv612. Finally, it is

ORDERED that the motions for appointment of counsel and for leave to proceed *in forma pauperis* in cause no. 6:16cv1144 are **DENIED** as moot and unnecessary.

So Ordered and Signed

Jan 25, 2017



Ron Clark, United States District Judge